

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.)

TRUSTEE'S OBJECTION TO CLAIM 464 FILED BY ANNA GAYLE GIBSON

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 464 (the "Claim")¹ filed by Anna Gayle Gibson. The Trustee will soon amend the complaint in Adv. Proc. No. 12-59151 (the "Adversary") to add Anna Gayle Gibson as a defendant. The Trustee will seek to disallow the Claim in the Adversary. As a result, the Trustee requests that the Court stay further proceedings on this Objection until further notice from the Trustee. In support of this Objection, the Trustee respectfully states:

Jurisdiction

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

¹ All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

Background

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11 bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

6. The Court entered an order confirming the *Trustee's First Amended Chapter 11 Plan of Liquidation* [Dock. No. 1490] (the "Plan") on December 17, 2012, and the Plan became effective on December 20, 2012. *See* Dock. No. 1675.

7. Pursuant to the Plan, the deadline for claim objections is April 19, 2013.

Request for Relief

8. By this Objection, the Trustee seeks entry of an order disallowing the Claim. However, the Trustee requests that the Court stay further proceedings on this Objection pending notice from the Trustee.

9. The Claim asserts an unsecured claim in the amount of \$900,000 on account of Anna Gayle Gibson's obligations as co-debtor on Debtor's obligations to Capitol

Indemnity Corporation. The only documentation attached to the Claim is a copy of a complaint filed by Capitol Indemnity Corporation ("CIC") against Anna Gayle Gibson and others. Anna Gayle Gibson has not presented any evidence that she has made any payments to CIC or is otherwise subrogated to CIC's rights. In fact, CIC has filed a claim in this case for \$875,000.

10. In addition, and to the extent Anna Gayle Gibson asserts a valid claim against Debtor, the Claim should be subordinated to the claims of general unsecured creditors pursuant to 11 U.S.C. § 509(c). 11 U.S.C. § 509(c) provides:

The court shall subordinate to the claim of a creditor and for the benefit of such creditor an allowed claim, by way of subrogation under this section, or for reimbursement or contribution, of an entity that is liable with the debtor on, or that has secured, such creditor's claim, until such creditor's claim is paid in full, either through payments under this title or otherwise.

11. The Claim is apparently asserted as a co-debtor of Debtor on obligations to general unsecured creditors of Debtor. Because unsecured creditors will not be paid in full, the Claim should be subordinated to the claims of unsecured creditors.

12. The Claim is also subject to disallowance pursuant to 11 U.S.C. § 502(d).

13. The Trustee seeks to disallow the Claim in the Adversary and therefore requests that the Court stay further proceedings on this Objection pending the outcome of the Adversary.

WHEREFORE, the Trustee objects to the Claim but respectfully requests that the Court stay further proceedings on this Objection until further notice from the Trustee. The Trustee asks for all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on April 19, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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